

Exhibit 3



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Transcript of William C. Kelly

Date: August 20, 2019

Case: Russell, et al. -v- Educational Commission for Foreign Medical Graduates

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Volume I
Pages 1-224

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Case No. 2:18-cv-05629-JW

Hon. Joshua D. Wolson

MONIQUE RUSSELL, JASMINE RIGGINS

ELSA M. POWELL AND DESIRE EVANS,

Plaintiffs,

vs.

EDUCATIONAL COMMISSION FOR

FOREIGN MEDICAL GRADUATES

Defendant.

DEPOSITION OF WILLIAM C. KELLY

Tuesday, August 20, 2019 at 9:40 a.m.

Law Offices of Morgan, Lewis & Bockius, LLP

One Federal Street

Boston, Massachusetts 02110-176

-----Jennifer A. Doherty, CSR-----

Certified Shorthand Reporter

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1 tell me.

2 A. I will.

3 Q. Because if you answer the question, I'm
4 going to assume you understood it. Fair enough?

5 A. Fair enough.

6 Q. Can we have, for the record, your full
7 name and address?

8 A. My name is William Kelly, K-E-L-L-Y. My
9 home address is 47 Powerhouse, P-O-W-E-R-H-O-U-S-E,
10 Hill, H-I-L-L, Lane. That's in Rockport, Maine
11 04856.

12 Q. So you at one time worked for ECFMG, the
13 Educational Commission for Foreign Medical
14 Graduates?

15 A. Yes.

16 Q. And when did you leave that company's
17 employment?

18 A. I retired in May 2015.

19 Q. So when you left ECFMG, you didn't take
20 employment elsewhere?

21 A. When I left ECFMG, I worked full-time. I
22 worked as a consultant for them for one year
23 part-time.

24 Q. What years would that be?

25 A. That would be May 2015 until I think it

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1 was June 2016.

2 Q. Okay. But since June 2016 you've been
3 completely retired?

4 A. No. I do contracting work with the State
5 Department, their International Visitor Leadership
6 Program. I'm a liaison officer.

7 Q. How much of your time does that take?

8 A. It varies from year to year and this year
9 it will be a total of maybe ten weeks.

10 Q. What's your educational background?

11 A. My undergraduate, I have a Bachelor of
12 Arts from LaSalle University in Philadelphia and
13 graduate school I have a Master of Science from the
14 University of Pennsylvania.

15 Q. Did you work in Pennsylvania?

16 A. Yes.

17 Q. When you graduated from college, did you
18 go immediately into your master's program or did you
19 work first?

20 A. I worked first.

21 Q. For how long?

22 A. About twenty years.

23 Q. So who did you work for in that twenty
24 year period?

25 A. From when I graduated from college?

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1 Q. Yes, sir.

2 A. I first worked for an insurance company,
3 Liberty Mutual Insurance Company. And then I worked
4 for ECFMG.

5 Q. When did you start with ECFMG?

6 A. October 1977.

7 Q. Is that thirty-eight years you were with
8 the company?

9 A. Almost.

10 Q. Congratulations.

11 A. Thank you.

12 Q. And congratulations on your
13 semi-retirement.

14 A. Okay.

15 Q. I need to ask you, what did you do to
16 prepare for this deposition once you learned you
17 were coming here for this deposition?

18 A. On my own?

19 Q. Well, in any way. Did you do anything on
20 your own? Did you talk with anybody? Did you
21 review any documents? I can ask those as separate
22 questions, but basically I will start with: What
23 did you do to prepare for this deposition?

24 MS. MCENROE: Objection to form.

25 A. Well, I met with counsel.

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1 A. Could you repeat the question?

2 Q. Could you explain how that certification
3 process works or worked at the time you were
4 employed at ECFMG?

5 MS. MCENROE: Objection to form.

6 A. There was an evaluation and certification
7 process where international medical graduates passed
8 a series of examinations, documented their education
9 and credentials and -- that were verified by
10 ECFMG.

11 Q. So fair enough. What is the first step in
12 this process that ultimately leads to certification
13 by ECFMG?

14 MS. MCENROE: Objection to form.

15 BY MR. VETTORI:

16 Q. Do you understand my question?

17 A. The first step related to ECFMG?

18 Q. Yes, yes.

19 A. My recollection is it would be an
20 application to ECFMG.

21 Q. So is that an application to take steps
22 one and/or two of the USLME? Is that what that
23 application is all about?

24 A. Those were some of the exams. There were
25 different exams over time, but those were some of

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1 me fast-forward. If that same applicant to whom a
2 number had been assigned, when he filed his
3 application or her application, ultimately became
4 certified, would the certification number be the
5 same as that identification number? Again, I'm
6 talking about the '92, '93 period.

7 A. Yes.

8 MR. VETTORI: So can you mark
9 Exhibit 1?

10 (Exhibit No. 1 marked for
11 identification.)

12 BY MR. VETTORI:

13 Q. So again, I'm not trying to mislead you.
14 This is a 1996 booklet, not a 1992 or 1993 booklet.
15 Okay?

16 A. Okay.

17 Q. But do you recognize the document that's
18 been marked as Exhibit 1?

19 A. Yes.

20 Q. And is this the type -- is this document
21 given to any applicant -- was this document given
22 to any IMG applicant who applied to take any of the
23 USLME exams in 1996?

24 MS. MCENROE: Objection to form.

25 A. I think they would have had to have it in

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1 meant.

2 A. Yes.

3 Q. And was step two basic clinical science
4 material?

5 A. Yes.

6 Q. And both were, at that time, two-day
7 multiple choice tests administered by ECFMG; is that
8 correct?

9 A. My -- that -- I have no independent
10 recollection of that. Just from what's on the form
11 the answer would be yes.

12 Q. So am I correct that in addition to
13 successfully -- again, I'm in this 1992 to 1996
14 period. Am I correct that in addition to pass --
15 successfully completing steps one and two of the
16 USLME exams an applicant would also -- an IMG
17 applicant would also have to pass an English test?

18 A. Yes.

19 Q. And in addition, before ECFMG would
20 certify an applicant there had to be primary source
21 verification of that applicant's medical
22 credentials; is that correct?

23 A. Of their medical diploma, yes.

24 Q. Nothing more than their diploma?

25 A. Generally not.

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1 Q. And am I correct also that in that same
2 time period in order -- I'm sorry, was -- in that
3 time period were steps one and two and was the
4 English exam administered by ECFMG?

5 A. To the best of my recollection, yes.

6 Q. Step three was not administered by ECFMG,
7 was it?

8 A. It was not.

9 Q. It was administered by whom?

10 A. My recollection was that it was
11 administered by state medical boards.

12 Q. And am I correct in saying that an IMG
13 applicant could not sit for step three of the USLME
14 unless he or she was certified by ECFMG?

15 MS. MCENROE: Objection to form.

16 A. I believe that was the process in most, if
17 not all states, yes.

18 BY MR. VETTORI:

19 Q. So again, this is just a general question,
20 Mr. Kelly. And again, we're referring to this time
21 period that I framed from 1992 through 2000. Let's
22 say through 1996.

23 Is it correct to say that an IMG couldn't
24 practice medicine in the United States without being
25 certified by ECFMG?

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1 BY MR. VETTORI:

2 Q. Do you agree with that statement?

3 A. Would you repeat that for me, please?

4 BY MR. VETTORI:

5 Q. ECFMG works on behalf of domestic and
6 international regulatory authorities to protect the
7 public through its programs and services, including
8 primary source verification of physician
9 credentials?

10 MS. MCENROE: Objection to form.

11 A. That appears to be a statement of what it
12 currently does and I really don't have any direct
13 knowledge of that. It appears to be a contemporary
14 statement.

15 BY MR. VETTORI:

16 Q. You don't believe that statement applied
17 during the period of time you were employed by
18 ECFMG?

19 A. During part of that period.

20 Q. When did that --

21 A. The international part I don't think was
22 part of it back in the time frame you're talking
23 about.

24 Q. Okay. So let me rephrase it, give you --
25 ask you if you agree with the following statement.

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1 ECFMG works on behalf of domestic regulatory
2 authorities to protect the public through its
3 programs and services including primary source
4 verification of physician credentials?

5 MS. MCENROE: Objection to form.

6 A. I would say yes.

7 BY MR. VETTORI:

8 Q. Would it be accurate to say that ECFMG
9 protects the public by, among other ways, seeing
10 that foreign medical graduates have completed an
11 acceptable medical education?

12 MS. MCENROE: Objection to form.

13 A. In that that's part of the certification
14 process, yes.

15 BY MR. VETTORI:

16 Q. And would it be accurate to say that ECFMG
17 serves to protect the public by seeing to it that
18 foreign medical graduates can successfully pass the
19 requirements of the USLME examinations?

20 MS. MCENROE: Objection to form.

21 A. Yes.

22 BY MR. VETTORI:

23 Q. Would it also be accurate to say that
24 ECFMG protects the public by ensuring that foreign
25 medical graduates meet certain standards of

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1 left, it looks like it was filed, that is received
2 by ECFMG on April 6, 1992; is that correct?

3 A. Yes.

4 Q. And do you see in the middle of page 1
5 that he submitted a Social Security number ending in
6 5054?

7 A. Yes.

8 Q. Item four?

9 A. Yes, I see that.

10 Q. If you'll turn to page 2, what is the date
11 of birth he provided?

12 A. It looks as though it says the 17th of
13 April 1962.

14 Q. When ECFMG receives -- I'm sorry. When
15 ECFMG received this application, was any of the
16 information contained on this form, I guess it's
17 Exhibit 2, inputted into a -- this is a dinosaur
18 talking, I don't know computer terminology -- into a
19 computer program?

20 MS. MCENROE: Objection to form.

21 A. That was the procedure at this time. What
22 happened to this specific one, I could not say for
23 certain.

24 BY MR. VETTORI:

25 Q. And this may be difficult to answer, but

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1 outside.

2 Q. And how about in 1996?

3 A. I don't recall.

4 (Exhibit No. 3 marked for
5 identification.)

6 BY MR. VETTORI:

7 Q. As part of your review in preparation for
8 this deposition, did you review this document?

9 A. I don't recall this specific one, but I
10 may have.

11 Q. For the record, this is what purports to
12 be a diploma from the University of Ibadan for
13 someone by the name of Charles Olufemi,
14 O-L-U-F-E-M-I, Igberase, I-G-B-E-R-A-E-S-E. Would
15 it be the normal practice of ECFMG in 1992 to
16 require someone like Mr. Igberase who filled out the
17 application we just reviewed to also submit a
18 diploma?

19 A. Yes.

20 Q. But you don't have any specific
21 recollection about this diploma?

22 A. No.

23 Q. Do you have an independent recollection or
24 a recollection that's been refreshed by your review
25 of documents in this case as to whether ECFMG issued

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1 Q. Thank you. You testified a little earlier
2 that ECFMG required IMGs to submit diplomas,
3 correct?

4 A. Yes.

5 Q. And it was only the diploma that had to be
6 verified; is that your testimony?

7 A. At that time, yes.

8 Q. When did that change?

9 A. I don't know that it changed. I have no
10 independent knowledge that it changed.

11 Q. So your recollection is that during the
12 entire -- what did we say, thirty-five, thirty-eight
13 years that you were at ECFMG?

14 A. Thirty-seven and a half.

15 Q. It didn't change, only the diplomas were
16 required?

17 A. Not the whole time. And there was a
18 period before 1986 -- 1984 or 1986 where we did not
19 require primary source verification directly with
20 the medical school.

21 Q. But in the period of time that we're
22 talking about here today, which I've mentioned
23 probably too many times already, the diploma was the
24 only thing that had to be verified?

25 MS. MCENROE: Objection to form.

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1 A. As a general rule, yes.

2 BY MR. VETTORI:

3 Q. IMGs who applied for certification by
4 ECFMG were not required to submit transcripts of
5 their medical school, were they, or were they?

6 MS. MCENROE: Objection to form.

7 A. At that time, no.

8 BY MR. VETTORI:

9 Q. So when an applicant such as Mr. Igberase
10 provided you -- I'm sorry -- provided ECFMG with a
11 diploma, would I be correct in stating that ECFMG
12 would forward that with a form to the medical school
13 for the medical school to verify the accuracy or the
14 authenticity of that document, the diploma?

15 A. That was the procedure, yes.

16 (Exhibit No. 4 marked for
17 identification.)

18 BY MR. VETTORI:

19 Q. Do you recall reviewing this document as
20 part of the review you did in preparation for this
21 deposition?

22 A. I have no recollection of this specific
23 document.

24 Q. I'll represent to you that this is an
25 application filed by someone with the last name

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1 Charles, first name Igberase, middle name Oluwafemi,
2 and this looks like -- I'm going to ask you to
3 verify this -- that it was received by ECFMG on
4 March 30, 1994?

5 A. I can't make out the date, but it could be
6 that, yes. It's difficult to read.

7 Q. Do you see anywhere -- do you see in item
8 four whether a Social Security number was
9 provided?

10 A. I do not see one on this copy.

11 Q. And again, I'm sorry, for the record this
12 is Bates number 0000407, correct?

13 A. Yes.

14 Q. So turn to page 408, the next page. What
15 date of birth is provided?

16 A. 17th day, fourth month, year '61.

17 Q. So I take it since you don't recall
18 reviewing this, you can't tell me whether the
19 medical information -- the medical school
20 information on that form is almost identical to the
21 information on the form filed by Mr. Igberase,
22 correct?

23 MS. MCENROE: Objection to form.

24 BY MR. VETTORI:

25 Q. You didn't make that comparison?

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1 identification.)

2 (Discussion off the record.)

3 BY MR. VETTORI:

4 Q. So Mr. Kelly, Exhibit 6 is a handwritten
5 letter, which is dated in the upper right-hand side
6 July 14, 1995, and received at ECFMG on July 20,
7 1995. Can we agree on that?

8 A. Yes.

9 Q. And it's Bates number 0000433 through 437.
10 Can we agree on that?

11 A. Yes.

12 Q. And it is signed -- well, it says,
13 "Sincerely, Igberase Oluwafemi Charles" and it has
14 that 519 certification number. Do you see that?

15 A. Yes.

16 Q. And is it your understanding -- I'm sorry,
17 have you had time to look at it?

18 A. Give me a minute. I can look at this,
19 yeah.

20 (Complies.)

21 MS. MCENROE: I've finished reviewing
22 it.

23 BY MR. VETTORI:

24 Q. Okay. Do you remember this letter?

25 A. Remember?

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1 Q. Do you have an independent recollection of
2 receiving this letter?

3 A. No.

4 Q. As part of your review to prepare for this
5 deposition, did you review it?

6 A. This letter, yes.

7 Q. So would you agree with me that this is a
8 letter in response to the prior exhibit when you
9 wrote to him saying you were investigating the
10 matter and he should write to you?

11 A. Yes.

12 Q. And would you agree with me that in this
13 letter he confesses to the fact that he's really
14 Igberase, that he and Igberase are one and the same
15 person?

16 A. Yes.

17 Q. And would you agree with me that basically
18 he blamed what he did on his friends?

19 MS. MCENROE: Objection to form.

20 A. I don't know that I would characterize it
21 that way.

22 BY MR. VETTORI:

23 Q. Well, take a look at the middle of page 2.
24 He says, "As a result of these" -- meaning his
25 inability to get into 150 residency programs, any of

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1 future -- that the future records he was going to
2 use the name Igberase Oluwafemi Charles?

3 A. Yes.

4 Q. So after receiving this handwritten letter
5 in response to your letter, did the committee on
6 medical education credentials meet to review the
7 matter?

8 A. That is my recollection, yes.

9 MR. VETTORI: Let me show him the
10 letter and we can stop right here after this.

11 (Exhibit No. 7 marked for
12 identification.)

13 BY MR. VETTORI:

14 Q. It's a short letter. Why don't you read
15 it, please.

16 A. (Complies.) I finished reading it.

17 Q. So this letter is signed by you?

18 A. Yes.

19 Q. And this letter is telling, I guess both
20 Charles and Igberase, what the results are of the
21 meeting of the education -- ECFMG committee on
22 medical education credentials; is that correct?

23 A. Yes.

24 Q. And as I understand it, the decision of
25 the committee was to invalidate the ECFMG

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1 certificate issued as 0519573-0, correct?

2 A. Yes.

3 Q. That's the one that was issued to the
4 gentleman by the name of Charles, correct?

5 A. I have no independent knowledge of that.

6 Q. And also is telling Charles and Igberase
7 that ECFMG was revoking the certificate issued under
8 0482700-2, correct?

9 A. Yes.

10 Q. And isn't that the certificate issued to
11 Mr. Igberase?

12 A. That I don't know.

13 MR. VETTORI: This is a good time to
14 take a break.

15 MS. MCENROE: Off the record.

16 (Discussion off the record.)

17 MS. MCENROE: So can we hop back on
18 the record just for two quick things for the
19 purposes of the record?

20 On behalf of ECFMG we are reserving
21 the right to review and sign today's transcript.
22 And we've also discussed with counsel a stipulation
23 that all objections, except as to the form, are
24 reserved for the time of trial, if that is
25 acceptable with you-all as well.

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1 the diploma and the person whose name is on the
2 application are really the same person?

3 MS. MCENROE: Objection to form.

4 A. Yes.

5 BY MR. VETTORI:

6 Q. Okay. When did that policy, practice, or
7 procedure first go into effect?

8 A. I don't recall the date.

9 Q. Was it effective as of 1995?

10 A. I don't recall it being in effect at that
11 time.

12 Q. What is that policy, practice, or
13 procedure?

14 A. Okay. And I'm -- again, this is at the
15 time it was in place when I was there. I mean,
16 again, I don't know what it is now, that if there is
17 a -- a significant -- a discrepancy between the name
18 on the diploma and the name they're using when they
19 apply for the examination that they provide
20 certain -- some sort of documentation to connect
21 that -- to indicate the two names belong to the same
22 person.

23 Q. But is it your testimony that you don't
24 believe that policy was in effect, at least not in
25 1995?

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1 Q. Okay. And so it looks to me like the
2 person who took the July 1992 day one and day two
3 exams failed; is that correct?

4 A. Failed in July 1992.

5 Q. Correct.

6 A. Yes.

7 Q. And failed step one in September 1992; is
8 that correct?

9 A. Yes.

10 Q. And failed day one in January 1993; is
11 that correct?

12 A. Yes.

13 Q. Do you have an independent recollection or
14 a recollection refreshed by any review of documents
15 you made prior to this deposition as to whether the
16 applicant by the name of Charles took an appeal from
17 the decision of the committee that's reflected in
18 your December 7, 1995, letter?

19 A. My recollection is that he took an appeal,
20 but I don't know which -- I don't recall which
21 decision.

22 Q. Do you remember whether that appeal
23 resulted in a hearing?

24 A. My recollection is that there was a
25 hearing, yes.

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1 Q. And bear with me one second.

2 Do you remember when that appeal hearing
3 took place?

4 A. No.

5 Q. I'll come back to that later. Do you
6 remember the outcome of the appeal?

7 A. Yes.

8 Q. What was the outcome?

9 A. My recollection is that the appeal was
10 denied.

11 Q. Is that the same thing as saying the
12 decision to invalidate one certificate and revoke
13 the other was affirmed?

14 A. Yes, but that there was a -- a change in I
15 believe the length of time of the revocation of the
16 one certificate, the specification of the date.

17 (Exhibit No. 9 marked for
18 identification.)

19 BY MR. VETTORI:

20 Q. It's a one-page letter, sir. If you take
21 your time to read it, I'd appreciate it. Thank you,
22 Mr. Kelly.

23 A. (Complies.) Yes, I've read it.

24 Q. So who is Marie Shafron?

25 A. At that time Ann Marie Shafron was the

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1 vice president of operations at ECFMG.

2 Q. And would you agree with me that this
3 letter is outlining to the gentleman by the name of
4 Charles the results of the appeal hearing?

5 A. Yes.

6 Q. And do you see where this letter recites
7 that the appeal was considered on July 10, 1996?
8 It's in the middle paragraph.

9 A. Yes.

10 Q. In Washington, DC?

11 A. Yes.

12 Q. And would you agree with me that the
13 decision of the review committee affirmed the
14 decision invalidating one certificate and revoking
15 the other, but limited the length of the revocation
16 of certificate 04827002 to five years from July 10,
17 1996, until July 10, 2001?

18 A. Yes.

19 Q. Thank you.

20 (Exhibit No. 10 marked for
21 identification.)

22 BY MR. VETTORI:

23 Q. So Mr. Kelly, what is this document?

24 A. It appears to be a photocopy of an
25 application for USMLE exams.

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1 Q. Which exams was he applying for?

2 A. According to the application, the -- both
3 the step one and the step two.

4 Q. And what is the name of the applicant?

5 A. On the application it's Femi Charles
6 Igberase.

7 Q. Do you see whether any Social Security
8 number was provided?

9 A. I see no Social Security number on the
10 application.

11 Q. And can you tell from the Bates stamp on
12 the document when it was received by ECFMG?

13 A. Yes.

14 Q. When was it received?

15 A. October 23, 2000.

16 Q. Do you see the date of birth on the --
17 towards the bottom of Page 1 of that application?

18 A. Yes.

19 Q. What is the date of birth?

20 A. 17th day of the fourth month in 1962.

21 Q. April 17?

22 A. Yes.

23 Q. Isn't that the same date as on the 1992
24 application by Igberase?

25 A. I would have to look.

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1 Q. Please do. It's one of the early -- it's
2 the second exhibit, I think.

3 A. Yes, it is.

4 Q. So did you review this document, the
5 application, Exhibit 10, in preparation for this
6 deposition?

7 A. I don't recall this specific -- no.

8 Q. Am I correct that ECFMG pretty quickly
9 picked up on the fact this is the same Igberase
10 whose certificate had been revoked for five years
11 through and including July 10, 2001?

12 A. My recollection is that at some point, I
13 don't know the time period, but I know subsequent to
14 this, there was an allegation that he provided false
15 information on his application, yes.

16 Q. What do you mean by there was an
17 allegation?

18 A. My recollection is subsequent to this we
19 alleged that he had engaged in irregular behavior.

20 Q. Just to help answer this question, I'm
21 going to show you in a minute your letter dated
22 November 16, 2000, about this application.

23 A. Okay.

24 Q. So it appears to me that within less than
25 a month's time ECFMG has concluded that this is the

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1 same Igberase who had been told that his
2 certification was revoked through July 10, 2001.
3 Would you agree with me?

4 MS. MCENROE: Objection.

5 A. We made that allegation, yes.

6 BY MR. VETTORI:

7 Q. So do you have an independent recollection
8 as to how you came to that determination?

9 A. No.

10 Q. So do you remember me reading to you from
11 Charles's handwritten letter that for future records
12 he is going to use the name Igberase Oluwafemi
13 Charles? Do you recall that?

14 A. Yes, I do.

15 Q. He didn't do that here, did he?

16 A. No, he did not.

17 (Exhibit No. 11 marked for
18 identification.)

19 BY MR. VETTORI:

20 Q. Let me know after you've read it, okay,
21 Mr. Kelly? Thank you.

22 A. (Complies.) I finished reading it.

23 Q. Okay. Can we go back to the prior
24 exhibit, No. 10? Put that in front of you, please.

25 Would you agree with me that this

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1 look on his face and I think I had the same one, but
2 I think I got the answer.

3 A. Okay. I finished reading.

4 BY MR. VETTORI:

5 Q. So this is a letter dated May 22, 2002,
6 this being Exhibit 14, correct?

7 A. Yes.

8 Q. And it's your letter?

9 A. It's from me, yes.

10 Q. This is approximately a year after your
11 previous letter, correct?

12 A. Yes.

13 Q. Can I offer what I think is the
14 explanation for that period of time and see if you
15 agree with me?

16 A. Yes.

17 Q. I think in an earlier letter you wrote
18 that you would reconsider the matter after the
19 decision by the USMLE and their remand to you. Do
20 you remember that?

21 A. Yes.

22 Q. Is that the reason for this letter being
23 almost a year later?

24 A. That would have been the process, yes.

25 Q. Thank you.

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1 received April 18th?

2 Q. March 18th.

3 A. March 18th, yes, that would have been.

4 MS. MCENROE: Do you want to take a
5 break?

6 MR. VETTORI: No.

7 (Exhibit No. 16 marked for
8 identification.)

9 BY MR. VETTORI:

10 Q. Mr. Kelly, Exhibit 16, which is Bates
11 number 0000267, appears to be a copy of something
12 that purports to be a diploma from the University of
13 Ibadan for a person named Charles Igberase
14 Oluwafemi. Do you see that?

15 A. Yes.

16 Q. Do you know whether this was submitted to
17 ECFMG as part of the application we just
18 discussed?

19 A. I do not know.

20 Q. You don't have any independent
21 recollection of this?

22 A. I do not.

23 Q. Do you have any recollection whether this
24 diploma was ever verified with the University of
25 Ibadan?

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1 A. I have no knowledge.

2 Q. Do you have any knowledge whether any
3 information was inputted into the computer system
4 when this application was filed?

5 A. I have no knowledge.

6 Q. Do you have a recollection that ECFMG
7 determined within a short period of time after this
8 application was filed by this gentleman with the
9 last name Oluwafemi that it was the same person that
10 applied as Igberase and as Charles?

11 A. I don't recall that, no.

12 (Exhibit No. 17 marked for
13 identification.)

14 BY MR. VETTORI:

15 Q. March 18, 2002.

16 A. Okay, I finished. I read -- reviewed the
17 letter.

18 Q. So does this refresh your recollection
19 that ECFMG realized pretty quickly after the March
20 18, 2002, application that this person by the name
21 of Oluwafemi is really the same as the person
22 identified as Charles and as Igberase?

23 A. It doesn't refresh my recollection, but
24 the letter tells me that that is what happened.

25 Q. You wouldn't have written that if it

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1 already established that, Mr. Kelly.

2 MS. MCENROE: Objection to form.

3 BY MR. VETTORI:

4 Q. Isn't that correct?

5 A. If that is what we did, then this was a
6 different applicant, yes.

7 Q. Correct. Are you aware that this is the
8 identical diploma submitted by the person with the
9 name Charles Oluwafemi Igberase that you verified
10 with the school?

11 A. I'm not aware of that.

12 Q. So again, we have a situation where the
13 applicant's name is different than the name on the
14 diploma, correct?

15 MS. MCENROE: Objection.

16 A. The name -- the sequence of names is
17 different, yes.

18 BY MR. VETTORI:

19 Q. Correct. And is there any documentation
20 to indicate to ECFMG an explanation for that?

21 A. I see none.

22 Q. So as I -- is it correct to say that ECFMG
23 relied on a verification of a diploma for someone
24 whose name is different than the applicant Igberase
25 Oluwafemi Charles?

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1 assigned to him the number 0519573-0. ECFMG
2 certified both of those individuals with different
3 certification numbers.

4 A. Yes.

5 Q. And that's because, isn't it, Mr. Kelly,
6 that ECFMG thought they were two different people?

7 A. I don't know that I would have used that
8 language, but they were two separate applicants,
9 yes, yes, individuals, yes.

10 Q. ECFMG would never assign two certification
11 numbers and -- I'm sorry -- two identification
12 numbers and actually certify with two different
13 certification numbers the same person, would it?

14 MS. MCENROE: Objection to form.

15 A. Not knowingly.

16 BY MR. VETTORI:

17 Q. So again, ECFMG relied on a verification
18 of a diploma for a person whose name is different
19 than the name on the application. You would agree
20 with that, wouldn't you?

21 MS. MCENROE: Objection to form.

22 A. The sequence of names on the diploma are
23 different than the sequence of names on the
24 application.

25 BY MR. VETTORI:

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1 raised a flag.

2 BY MR. VETTORI:

3 Q. So why then when Igberase Oluwafemi
4 Charles applied, didn't ECFMG question whether it
5 was just a rearrangement of names or not?

6 MS. MCENROE: Objection to form.

7 A. I would have to go back to the application
8 and look.

9 BY MR. VETTORI:

10 Q. Well, we know from one of your letters
11 that you said the reason why you didn't make that
12 determination when the application, the second
13 application was filed, that is the one by
14 Mr. Charles or Dr. Charles was because his date of
15 birth was different and the order of his name was
16 different, correct? You remember that letter?

17 A. Yes, yes, yes.

18 Q. So you thought they were two different
19 people, even though the names were similar, they
20 were in a different arrangement; isn't that
21 correct?

22 MS. MCENROE: Objection to form.

23 A. That would be correct, yes.

24 BY MR. VETTORI:

25 Q. I'm just curious why there's not a diploma

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1 stamp, we established from some other letters that
2 it clearly was March 18, 2002; do you agree?

3 A. Yes.

4 Q. I think my question to you was, it appears
5 to me -- I'm sorry.

6 Would you agree with me that ECFMG
7 realized within a short period of time after this
8 March 18, 2002 application was filed that this
9 person using the name Charles Igberase Oluwafemi was
10 really the person certified under number
11 0482700-2?

12 A. Yes.

13 Q. And so you wrote a letter on July 22,
14 2002, to someone by the name of Charles Igberase
15 Oluwafemi, correct?

16 A. Yes.

17 Q. His application had not referenced any
18 identification or certification number, had it?

19 A. Yes.

20 Q. Yes, it had not?

21 A. That is correct.

22 Q. But you referenced the 0482700-2
23 certification number, correct?

24 A. Correct.

25 Q. And that was the one assigned to Igberase

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1 dated January 3, 1996. Can you confirm that?

2 A. That appears to be the receipt date,
3 yes.

4 Q. Right. Does it list a Social Security
5 number?

6 A. There is none listed on there.

7 Q. What is the date of birth? Second page.

8 A. January 1, 1959.

9 Q. And does this applicant, John Nosa Akoda,
10 indicate what medical school he attended?

11 A. Yes.

12 Q. Which one?

13 A. University of Benin, Nigeria.

14 Q. Does he indicate when he graduated?

15 A. He does not list the degree date. He
16 lists his attendance dates.

17 Q. What are the attendance dates?

18 A. October '81 to October '87.

19 Q. If you look at Bates page 40705, which I
20 think is the third page of the application, part C.

21 A. Yes.

22 Q. There is a photograph attached or there is
23 a photograph on that page; is there not?

24 A. It appears to be a photograph.

25 Q. Isn't that a requirement of all

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1 applications, that they attach a photograph?

2 MS. MCENROE: Objection to form.

3 A. That is, yes.

4 BY MR. VETTORI:

5 Q. And doesn't that photograph have to be
6 verified by the dean of the medical school?

7 MS. MCENROE: Objection to form.

8 A. It does not have to be.

9 BY MR. VETTORI:

10 Q. What was the procedure in 1996 at ECFMG
11 with respect to the verification of a photograph on
12 an application?

13 A. I don't recall.

14 Q. So in section B1, down towards the bottom,
15 the form says, "Explain in the space below why the
16 application could not be signed in the presence of
17 your medical school dean, vice dean, or register --
18 any registrar. Any explanation must be acceptable
19 to ECFMG and must be provided each time you submit
20 an application to ECFMG."

21 Do you see that?

22 A. Yes.

23 Q. And the handwritten answer was "because
24 the postal system to Nigeria could not be guaranteed
25 within the available time." Did I read that

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1 any time while you were employed by ECFMG?

2 A. Yes.

3 Q. What?

4 A. You would check the name and the seal
5 against samples in the reference library, in the
6 credential reference library.

7 Q. But you don't know when that was?

8 A. No.

9 Q. You don't know if that reference library
10 was utilized in the 1996 time period?

11 A. I don't recall.

12 Q. Does it appear to you that the dates of
13 attendance at the University of Benin are the same
14 on Exhibits 24 and 23?

15 A. Yes.

16 Q. From your review of the many records in
17 preparation for this deposition or from your
18 independent personal knowledge, do you know why this
19 occurred, the individual applied once, didn't take
20 any exams and then applied again?

21 A. No, I don't know.

22 Q. You don't remember?

23 MS. MCENROE: I'm just going to -- he
24 stated he didn't remember, but I think testified he
25 didn't know.

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1 A. Yes.

2 Q. And the middle name on the diploma is
3 Enosekhare, E-N-O-S-E-K-H-A-R-E, correct?

4 A. Yes.

5 Q. And Akoda is the same on both, correct?

6 A. Yes.

7 Q. Do you know if ECFMG verified this
8 diploma?

9 A. I do not know.

10 Q. Do you know whether John Nosa Akoda was
11 ever certified by ECFMG?

12 A. My recollection is that he was.

13 MR. VETTORI: Off the record.

14 (Discussion off the record.)

15 (Exhibit No. 26 marked for
16 identification.)

17 BY MR. VETTORI:

18 Q. So Mr. Kelly, what is this document?

19 A. It -- to me it's got a photocopy of an
20 ECFMG certificate.

21 Q. Are you familiar with this form of
22 document?

23 A. Yes.

24 Q. So would I be correct in stating that when
25 an applicant is certified, they receive one of

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1 that the gentleman by the name of Akoda is
2 participating in a residency program at Jersey Shore
3 Medical Center?

4 A. Strictly speaking that he had started the
5 program.

6 Q. And this completed form was received by
7 ECFMG on July 24, 1990 -- I can't tell the date.
8 Can you read that date?

9 A. I can read the July 24, but not the
10 rest.

11 Q. I think it's '99.

12 A. Since the valid indefinitely sticker was
13 sent in 1998, it's likely 1998 is the date it was
14 received.

15 Q. So it's my somewhat limited understanding
16 that as of 1998 when a IMG who has been certified by
17 ECFMG and who has passed step three of the USMLE
18 applies to a residency program, ECFMG in some
19 fashion assists in that application if requested to
20 do so? Is that understanding correct?

21 MS. MCENROE: Objection for form.

22 A. Assist in the application?

23 BY MR. VETTORI:

24 Q. Yes. And you can restate it, if it helps
25 you

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1 A. Yeah. I mean, we work with the
2 Association of Medical -- American Medical Colleges
3 for the electronic residency application service
4 where we serve as the dean station for international
5 medical graduates applying for residency programs.
6 So in that sense we are a part of that process.

7 Q. So as part of your participation in the
8 ERAS process, is it correct that -- when an
9 applicant -- I'm sorry. When an IMG applies to a
10 residency program using ERAS, another acronym, ECFMG
11 transmits a status report to the residency program;
12 is that correct?

13 A. That was the process, yes.

14 Q. As part of that ERAS process, again I'm
15 talking about this 1998 time period, did the -- was
16 the applicant required to send to ECFMG supporting
17 documents for further transmission to the residency
18 program?

19 A. I am not sure.

20 Q. As part of the ERAS program, in the time
21 period we're talking about, was it the practice for
22 ECFMG to transmit the IMGs USMLE transcripts as
23 requested by the applicant?

24 A. If requested by the applicant, yes.

25 Q. Do you know what, generally speaking,

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1 A. Okay. I reviewed it.

2 Q. Okay. Are you familiar with this
3 letter?

4 A. I've seen this letter before, yes.

5 Q. This is a letter from James McCorkel who
6 is vice president of academic affairs at Jersey
7 Shore Medical Center to Eric Holmes at ECFMG
8 dated -- I don't know what the date is, but it was
9 received by ECFMG on August 11, 2000, correct?

10 A. That's the received date, yes. There is a
11 Friday, August 11, 2000, that date under Meridian
12 Health Systems.

13 Q. Thank you. What does the AIS stand for
14 under ECFMG?

15 A. Applicant Information Services.

16 Q. Are you the "To Bill" on the top?

17 A. Very likely, yes.

18 Q. I take it Mr. Holmes holds a pretty steep
19 position or did at ECFMG?

20 A. His name was Royce, R-O-Y-C-E, and he
21 since died and he was in the information services
22 department.

23 Q. Would you agree with me that in this
24 letter Doctor McCorkel is notifying ECFMG that John
25 Charles Akoda certificate 05532585 who is a resident

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1 in the Jersey Shore residency program presented to
2 Jersey Shore Medical Center a Social Security number
3 that was issued to Igberase?

4 A. That is what he states, yes.

5 Q. That Social Security number ended in
6 9065?

7 A. That's what the letter says, yes.

8 Q. That's the same 9065 number that was
9 provided to you in Exhibit 32 in 1998, correct?

10 A. Exhibit 31, yes.

11 Q. Did I mix my numbers up? Okay. I stand
12 corrected. Thank you. It looks to me like Stephen
13 Seeling replied to that letter on August 22, 2000.
14 Do you remember we talked about that earlier?

15 A. That's Exhibit 31.

16 MR. VETTORI: Can we mark that,
17 please?

18 A. I have a letter.

19 Q. I think you told me you wrote this
20 letter?

21 A. Yes, I'm sure I did.

22 (Exhibit No. 35 marked for
23 identification.)

24 Q. This letter that you ghosted for
25 Mr. Seeling indicates that the medical diploma of

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1 the individual certified under 482700-2 was verified
2 with the medical school. Do you see that in the
3 third paragraph?

4 A. Yes.

5 Q. And it says the same thing in the second
6 paragraph about the diploma of the individual
7 certified as number 0553-285-5, correct?

8 A. Yes.

9 Q. We've already established for the record
10 that it was the same diploma, correct?

11 MS. MCENROE: Objection to form.

12 Q. Let me restate the question. There is no
13 diploma in the name of -- hold on a second. Let me
14 make sure I got the right name -- Igberase Oluwafemi
15 Charles?

16 MS. MCENROE: Objection to form.

17 A. I have to go back and look at the
18 diploma.

19 Q. I can represent to you -- you can look at
20 anything you want. I can represent to you we talked
21 about this for about five minutes and the last name
22 on the diploma is Igberase. This is the one you
23 said was the order of the names was different?

24 A. Yes.

25 Q. But there is in fact no diploma with the

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1 last name Charles on it?

2 MS. MCENROE: Objection.

3 A. Listed as the last name on the diploma?

4 Q. Correct.

5 A. Yes.

6 Q. In Mr. McCorkel's letter to you, the prior
7 exhibit, he also talks about the fact that Jersey
8 Shore Medical Center would be interested in knowing
9 whether ECFMG had requested for verification of
10 Doctor Akoda, also known as Doctor Igberase, ECFMG's
11 certification status from other teaching hospitals
12 including Harlem Hospital Center in the period of
13 time of approximately 1995 to '96 or JFK Memorial
14 Hospital in 1997, '98. Do you see that?

15 A. Yes, I do.

16 Q. In the letter you ghosted for Mr. Seeling
17 it was stated that on the last paragraph, "ECFMG has
18 no record of receipt of request for verification of
19 the certification status from Harlem Hospital Center
20 or JFK Memorial Hospital Center." Do you see
21 that?

22 A. Yes.

23 Q. I take it you or somebody at your
24 direction made an investigation of that before
25 writing that letter?

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1 A. Yes.

2 Q. He told you that he's not Igberase
3 Charles, but rather than he's his cousin?

4 A. That's what he said, yes.

5 Q. And --

6 A. -- according to the memo.

7 Q. I apologize, Mr. Kelly. He again admits
8 to using his cousin's Social Security number,
9 correct?

10 A. Yes.

11 Q. And so he provided you with an original
12 Nigerian passport and Nigerian international driving
13 permit and you made copies, right?

14 A. That's what it says.

15 Q. He told you that he'd been suspended by
16 Jersey Shore?

17 A. Yes.

18 Q. Did you make any attempt at that time to
19 verify the authenticity of his passport?

20 MS. MCENROE: Objection to form.

21 A. I don't remember.

22 Q. Did you at any time make an attempt to
23 verify the authenticity of his passport?

24 MS. MCENROE: Objection to form.

25 A. I don't remember.

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1 Q. Do you remember whether his passport
2 showed a date of birth?

3 A. I would have to look at it, but generally
4 I know passports have dates of birth.

5 Q. And did you ever go back and check the
6 date of birth on his passport in comparison with the
7 date of birth on Exhibit 33, his request for
8 permanent revalidation of standard ECFMG
9 certificate?

10 A. I don't know if I did.

11 Q. Do you know how you would go about
12 checking the authenticity of a Nigerian passport?

13 MS. MCENROE: Objection to form.

14 A. Do I know?

15 Q. Did you know at that time?

16 A. I may have. That would be trying to
17 project or guessimate what would have happened.

18 MR. VETTORI: Shut up. That was my
19 watch I was talking to.

20 MS. MCENROE: Let the record
21 reflect.

22 Q. Take a look at Exhibit 33 for me, would
23 you, please?

24 A. Yes.

25 Q. What is the date of birth listed on

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1 there?

2 A. April 17, 1963.

3 (Exhibit No. 42 marked for
4 identification.)

5 Q. While looking at -- Mr. Kelly, this is a
6 copy of Federal Republic of Nigeria passport
7 produced to us by ECFMG. Would you agree with what
8 I just said?

9 A. Is this the copy that was in his ECFMG
10 record?

11 Q. It was produced to us by ECFMG. It's got
12 a Bates number on it.

13 A. Then it is.

14 Q. Would this have been what he produced to
15 you at this meeting?

16 A. If this is in the ECFMG records as having
17 been produced, yes. I don't know just by looking at
18 it.

19 Q. I appreciate that. What is his date of
20 birth on his passport?

21 A. It looks like January 1, 1959.

22 Q. That's different from the birth date on
23 Exhibit 33?

24 A. Yes.

25 Q. So I'm not sure, maybe this is a function

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1 telling you that is the number system now.

2 MS. MCENROE: Objection to form.

3 Q. I don't think there's a question pending.
4 I think he's told me he doesn't know.

5 A. I don't know.

6 Q. It's fair to say that, though, that you
7 have no recollection of making any attempt to verify
8 the authenticity of that passport?

9 MS. MCENROE: Objection to form.

10 A. I do not remember making an attempt,
11 yes.

12 Q. So either before Akoda came into your
13 office on September 27 or after he came into your
14 office, did you undertake any investigation of your
15 database to try to determine whether Akoda and
16 Igberase were one and the same person?

17 A. I don't remember.

18 Q. I think we've established from some of the
19 applications that we've gone over here today that
20 photographs are attached to the applications?

21 A. Photographs of the applicant, yes.

22 Q. Those are maintained in ECFMG's
23 database?

24 A. Yes.

25 Q. If you, either before or after September

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1 27, had gone into the database to look for a
2 photograph of Igberase and looked for a photograph
3 of Akoda, you could have done that?

4 MS. MCENROE: Objection to form.

5 A. I believe I could have, yes.

6 Q. You didn't do that?

7 A. I don't know if I did.

8 Q. So how long did Igberase spend in your
9 office on the 27th of September 2000?

10 A. I do not know.

11 Q. I take it you didn't recognize him as
12 somebody you'd seen before?

13 A. I don't know. I don't recall.

14 Q. Well, I take it if you had recognized him
15 as someone you had seen before, you would have
16 memorialized that in some fashion, wouldn't you?

17 MS. MCENROE: Objection to form.

18 A. It depends on what you mean by someone
19 I've seen before.

20 Q. Seen as a someone holding himself out to
21 be someone by the name of Charles or by the name of
22 Igberase?

23 MS. MCENROE: Objection to form.

24 A. I believe I would have, yes.

25 Q. So you actually had seen Charles before,

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1 hadn't you?

2 MS. MCENROE: Objection to form.

3 A. I don't recall.

4 Q. So do you remember when I asked you some
5 questions earlier today about -- humor me -- the
6 history of the events with Igberase and Charles?

7 A. Yes.

8 Q. Do you remember you told me, because you
9 wrote it in a letter when you were reciting that
10 history, that he took an appeal from the original
11 invalidation and revocation of the two
12 certificates?

13 A. Yes.

14 Q. And that there was an appeal hearing in
15 Washington, D.C. on July 11, 2016.

16 A. I remember there was an appeal hearing.

17 Q. And you were there?

18 A. Yes.

19 Q. And you were there for a number of
20 hours?

21 A. Okay.

22 MS. MCENROE: Objection to form.

23 Q. Is that correct?

24 A. I remember being there, yes.

25 Q. And so you sat in a room with this person

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1 identification.)

2 A. I'm leafing through it.

3 Q. Please do. I can tell you that I didn't
4 find any start date for that transcript, but if you
5 look on the last page it ends at 11:50.

6 A. Okay.

7 Q. Don't take my word for it. Please verify
8 it.

9 A. Okay. Yes.

10 Q. And on the cover sheet it shows you as
11 being present, correct?

12 A. Yes.

13 Q. And I'll represent to you that this
14 individual who goes by the name of Charles who is
15 also we know now Igberase testified at this
16 hearing?

17 A. Yes.

18 Q. So whether it's an hour or two hours or
19 three hours, it's some period of time that you were
20 present in Washington, D.C. at a proceeding where
21 the individual calling himself Charles appeared and
22 testified, correct?

23 A. Yes.

24 Q. And a person calling himself Akoda, who
25 was in your office having been accused of really

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1 Igberase and Akoda were one and the same person,
2 correct?

3 A. Yes.

4 Q. And he said he has no proof, just a strong
5 suspicion, correct?

6 A. Yes.

7 Q. And he said information he received from
8 an informant provided details that led him to
9 believe this, correct?

10 A. Yes.

11 Q. Do you know who that informant is?

12 A. No.

13 Q. Did you ever ask him?

14 A. I don't recall.

15 Q. You didn't memorialize that anywhere in
16 any memos or notes, did you?

17 A. If I had, it would be in the record.

18 Q. "I also believe Akoda and Igberase are one
19 and the same," that's you talking, correct?

20 A. Yes.

21 Q. Why did you believe that?

22 A. I don't remember, but from reviewing the
23 records I thought there was a nexus between the
24 two.

25 Q. After all the time we spent here today

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1 A. I don't remember.

2 Q. So in many of the letters we've reviewed
3 here today when you talked about verifying
4 applicant's credentials, you also go out and state
5 you verified their medical school credentials
6 including their diploma, correct?

7 A. Yes.

8 Q. Would it be safe or fair for me to assume
9 that if you had verified the accuracy or
10 authenticity of his passport, you would have made a
11 statement to that effect somewhere?

12 MS. MCENROE: Objection to form.

13 A. Yes.

14 Q. So you indicate that you sent Igberase an
15 e-mail, correct?

16 A. Yes.

17 Q. That's the one we went over a little while
18 ago, right?

19 A. Yes.

20 Q. And you state, quote, "And who should
21 reply but Akoda, exclamation mark"?

22 A. Yes.

23 Q. Correct? That's your emphasis?

24 A. Yes.

25 Q. That surprised you, didn't it?

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1 A. You mean at the time he answered?

2 Q. At the time you wrote this memo. Why did
3 you put an exclamation "but Akoda, exclamation
4 mark"?

5 A. For emphasis or something like that,
6 yes.

7 Q. Emphasis to what effect?

8 A. That it seemed strange.

9 Q. Okay. "We need to brainstorm on this
10 one." You wrote that, correct?

11 A. Yes.

12 Q. "Maybe Shirley Williams, parens, Ms.
13 Sherlock" -- is that a reference to Sherlock
14 Holmes?

15 A. Most likely, yes.

16 Q. I'm sure it's an affectionate reference.
17 I don't know Ms. Williams. "Maybe Shirley Williams,
18 parens, Ms. Sherlock could sit in." You wrote that,
19 correct?

20 A. Yes.

21 Q. Did you and Mr. Seeling with or without
22 the assistance of Ms. Sherlock brainstorm this
23 matter further?

24 A. I don't remember.

25 Q. Can you point to me any record, any

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1 A. Yes.

2 Q. And you knew as of late December 2000 that
3 ECFMG had invalidated and/or revoked the
4 certificates issued to Igberase and Charles,
5 correct?

6 A. Yes.

7 Q. You knew there was some connection, a
8 relationship between Igberase and Akoda, correct?

9 A. Yes.

10 Q. And you knew that Akoda had used a Social
11 Security number of Igberase when he applied to the
12 residency program at Jersey Shore Medical Center,
13 correct?

14 A. Yes.

15 Q. And I think we've already established
16 this, I know I'm repeating myself, but bear with me,
17 you had the ability to look up all the computer
18 photographs of Igberase and Akoda to verify whether
19 they were one and the same person, correct?

20 MS. MCENROE: Objection to form.

21 A. Yes.

22 Q. And you didn't do that, correct?

23 MS. MCENROE: Objection to form.

24 A. If I can circle back, the internal
25 document with the comparison, so it would have had

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1 A. The irregular behavior he would have been
2 charged with would be providing false information
3 to ECFMG on an application, among other things.

4 Q. Which would be the Social Security
5 number?

6 A. If he provided it on an application.

7 Q. So you're aware that Jersey Shore Medical
8 Center dismissed him from a residency program he was
9 participating in and had been participating in for
10 several years for, among other things, submitting
11 and using someone else's Social Security number?

12 A. Yes.

13 Q. You may not be able to answer this. Have
14 you ever been advised of what he was convicted of or
15 what he pled guilty to in the federal court?

16 A. No.

17 Q. Do you recall that apparently Igberase was
18 licensed as a -- I'm sorry -- Akoda was licensed as
19 a nurse in New York?

20 A. No.

21 Q. Do you remember any information provided
22 to ECFMG by Akoda about him being licensed as a
23 nurse in the State of New York?

24 A. No.

25 Q. Same set of questions about Igberase. Do

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1 A. Yes.

2 Q. At the bottom it looks like -- is that the
3 ECFMG ERAS stamp or did I miss --

4 A. Yes.

5 Q. And that's October 5, 2006, correct?

6 A. Yes.

7 Q. So given that this is an ERAS document
8 submission form, wouldn't that necessarily mean that
9 this is related to some attempt to obtain a
10 residency program?

11 MS. MCENROE: Objection to form.

12 A. It's part of the electronic residency
13 application service, yes.

14 Q. But it doesn't have any use outside
15 residency programs, does it?

16 MS. MCENROE: Objection to form.

17 A. The form?

18 Q. The whole ERAS process.

19 A. Not to my knowledge.

20 Q. Because you told me before that as part of
21 the ERAS program, ECFMG in effect acts as the dean's
22 office for foreign medical graduates or
23 international medical graduates to assist them in
24 applying for residency programs, correct?

25 A. Yes.

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1 Q. That's Bates stamp 000651?

2 A. Yes.

3 Q. And you'll note on Bates stamp 000651
4 there is a stamp received October 5, 2006 ERAS,
5 correct?

6 A. Yes.

7 Q. If you go back to Exhibit 50, the ERAS
8 document submission form that references these three
9 letters of reference you'll see the ERAS form was
10 received on the same date; is that correct?

11 A. Yes.

12 Q. Continuing, the next page in this exhibit
13 is Bates stamp 000649, November 22, 2006, your
14 letter to Phil Robertson, MD, correct?

15 A. Yes.

16 Q. Again, enclosing a letter of reference
17 purportedly from Phil Robertson, MD on behalf of
18 Doctor John Charles Akoda dated 28 September, 2006,
19 correct?

20 A. Yes.

21 Q. It's got the same October 5, 2005 ERAS
22 stamp on it, does it not?

23 A. Yes.

24 Q. Do you have any recollection whether
25 Doctor A.O. Roberts, Doctor Phil Robertson, or

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1 Doctor Charles Francis ever replied to your
2 letters?

3 A. I have no recollection.

4 Q. In your review in preparation for this
5 deposition, did you see any such records?

6 A. I don't recall seeing any.

7 (Exhibit No. 52 marked for
8 identification.)

9 A. Okay. I've read this.

10 Q. What is this document?

11 A. It is a screen print from the ECFMG
12 applicant status program.

13 Q. About Akoda?

14 A. Yes.

15 Q. What does applicant restrictions mean?

16 A. That's what we called flags from the flag
17 file.

18 Q. Flag to file for what purpose?

19 A. There are myriad a number of reasons.

20 Q. Like in this case what was the reason?

21 A. There would always be a reason listed
22 here. It's other, other, credentials investigation,
23 credentials investigation, credentials
24 investigation, other.

25 Q. What does release date mean?

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1 line of communication with those institutions?

2 MS. MCENROE: Objection to form.

3 A. In some cases, yes.

4 Q. Do you know if ECFMG had such a
5 relationship with the University of Ibadan College
6 of Medicine?

7 A. I do not know.

8 Q. What about the University of Benin?

9 A. I do not know.

10 Q. I assume there are cases in which ECFMG
11 determines an applicant has engaged in some fraud in
12 the course of submitting an application? Fair?

13 A. Yes, there were instances.

14 Q. Can you provide me some estimate in terms
15 of how frequent an occurrence that was, let's say
16 between 1990 and 2000, maybe as a percentage of
17 total applicants?

18 MS. MCENROE: Objection to form.

19 A. I really don't have any idea how many were
20 done, but just to let you know that we always
21 reported and there is notification so it could be
22 reconstructed.

23 Q. And as I understand it, one of the
24 principle goals at ECFMG is to make sure or to do --
25 is to verify that those people who are applying to

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1 practice medicine here in the United States have
2 authentic credentials when they come here to
3 practice medicine. Fair?

4 A. To assure they're competent physicians,
5 yes.

6 Q. And in your role with ECFMG you understood
7 that one of the -- well, that residency programs and
8 state medical boards rely upon ECFMG to conduct that
9 verification of foreign medical graduate credentials
10 prior to those individuals coming here to practice
11 medicine. Fair?

12 MS. MCENROE: Objection to form.

13 A. That was one of the components of ECFMG
14 certification, yes.

15 Q. And would you agree that ECFMG plays an
16 important role in public health by verifying that
17 physicians who come here to practice medicine have
18 the necessary and requisite credentials to do so?

19 MS. MCENROE: Objection to form.

20 A. That is part of it, to protect the
21 American public, yes.

22 Q. And another role that ECFMG plays is
23 detecting or endeavoring to detect when an
24 individual lacks the -- well, when an individual has
25 not been honest in presenting their identity or

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1 A. It was standing committee of the ECFMG at
2 Board of Trustees for the specific charge of
3 reviewing policies and procedures, making
4 recommendations to the Board for any changes or
5 modifications to the certification requirements, and
6 to review allegations for irregular behavior.

7 Q. And who, if any, at ECFMG had the ability
8 to elevate potential suspicious conduct such that it
9 would be considered by the credentialing
10 committee?

11 A. It was generally a group, a review of a
12 group recommendation or decision of staff.

13 Q. Sure. If you in particular -- and did you
14 hold the same position from approximately 1991 until
15 your retirement?

16 A. No.

17 Q. Can you describe how your position with
18 ECFMG changed during that period of time?

19 MS. MCENROE: Objection to form.
20 Calls for a narrative over 38 years.

21 A. And I'm not sure of the exact dates for
22 some of these, but around 1991 I think I was the
23 manager of the information services department. I
24 was not involved in credentials, but around 1992 or
25 1993 I became a manager of the credentials

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1 department for a period of time, and then I became
2 director of the credentials and records services,
3 and then at the time I retired, I was associate vice
4 president for operations areas of credentials and
5 information services, records-keeping, and a number
6 of other areas.

7 Q. Okay. So from the time beginning when you
8 were the manager of the credentialing department
9 through until your retirement, if you had a
10 particular concern about an applicant, would you
11 have the ability to elevate that concern to the
12 credentialing committee?

13 A. By myself solely? So long as nobody
14 objected, I think I might have.

15 Q. Okay. What was Stephen Seeling's role
16 with ECFMG?

17 A. He was the vice president for operations.

18 Q. If Mr. Seeling had a concern about a
19 potential applicant, would he also have the ability
20 to independently bring that before the credentialing
21 committee?

22 MS. MCENROE: Objection to form.

23 A. When you say independently, he would have
24 done that in conjunction with me. I would have been
25 part of that. I don't know that he would take an

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1 a dean station?

2 A. Dean's office.

3 Q. Dean's office. So what do you mean by
4 that?

5 A. It's the facilitator for the process to
6 gather together all the components of an application
7 for a residency program and submit them on behalf of
8 the graduate. Unlike in the US, the University of
9 Pennsylvania School of Medicine, that dean's office,
10 would gather together all the documents for its
11 graduates to submit to the residency programs.
12 ECFMG did that for international medical
13 graduates.

14 Q. And how was ECFMG compensated for that
15 effort?

16 A. There was a fee for the ERAS token, and my
17 recollection is that that's how it was
18 compensated.

19 Q. That was paid by the applicant?

20 A. By the -- yes.

21 Q. And so is it generally the fact that
22 residency programs require letters of reference as
23 part of an application?

24 MS. MCENROE: Objection to form.

25 A. Letters of recommendation they called

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1 them, but yes.

2 Q. And ECFMG undertook the role to provide
3 some verification with respect to those letters of
4 recommendation?

5 A. No.

6 Q. In this particular case you reviewed with
7 Mr. Vettori a series of letters that you wrote in
8 response to an application written by Akoda asking
9 those individuals to verify that the letters of
10 recommendation were authentic. Do you recall
11 that?

12 A. Yes.

13 Q. Is that not something that you would do in
14 the normal course?

15 A. That was not a routine procedure.

16 Q. And why is it that you elected to do it in
17 this case?

18 A. My belief is that because he was otherwise
19 being investigated.

20 Q. And so safe to say that at that point in
21 2006 you had some concerns about Akoda's
22 credibility?

23 MS. MCENROE: Objection to form.

24 A. Yes.

25 Q. And so under these circumstances you

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1 thought it was important to reach out to those
2 individuals from whom Akoda had offered letters of
3 recommendation to find out if they were in fact
4 authentic?

5 MS. MCENROE: Objection to form.

6 A. That is correct.

7 Q. And as far as what is reflected in the
8 record and to the best of your recollection, none of
9 those individuals responded to your letters,
10 correct?

11 A. That is correct.

12 Q. In other words, your concerns regarding
13 Akoda's credibility were not alleviated by that
14 process that you went through in sending out these
15 letters to those individuals?

16 MS. MCENROE: Objection to form.

17 A. We did not receive verification of those
18 letters of recommendation.

19 Q. Did you -- if you would turn to Exhibit
20 51.

21 A. Yes.

22 Q. First of all -- actually, if we would go
23 to the actual letter of reference reportedly from a
24 Charles Francis, when -- actually, I'm going to step
25 back just a minute.

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1 Operations Squadron, you of course would have
2 reviewed this letter of reference prior to writing
3 this letter to Charles A. Francis, MD, correct?

4 MS. MCENROE: Objection to form.

5 A. I don't know -- I don't know that I
6 personally may have reviewed it, but someone would
7 have reviewed it.

8 Q. Okay. You, I'm sure -- well. Had you
9 reviewed this letter of reference, can we agree that
10 this document would raise red flags for you based
11 upon your years of experience in terms of the
12 credibility assigned to this particular letter of
13 reference?

14 MS. MCENROE: Objection to form.

15 Q. Is it what it purports to be?

16 MS. MCENROE: Objection.

17 A. I've seen all kinds of letters of
18 recommendation, and I can't say that there is any
19 one that I would be more concerned about this than
20 maybe other ones that turned out to be legitimate.

21 Q. Did you make any effort or did anyone in
22 your office make any effort to confirm that Charles
23 A. Francis is in fact a licensed medical
24 physician?

25 A. Verifying someone's licensure status would

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1 not have been something we would have done.

2 Q. Okay. Certainly you would have the
3 ability to do that if you wanted to. Someone in
4 Virginia in 2006, you could have determined whether
5 they had a -- there's a licensed physician by the
6 name of Charles A. Francis as of that point in
7 time?

8 MS. MCENROE: Objection.

9 A. I'm sure there was a process, yes.

10 Q. Did you make any effort to find out if
11 Charles A. Francis actually existed as a person?

12 A. By writing to him would be the only way I
13 see here.

14 Q. Your effort in that regard was not -- did
15 not neither confirm nor deny that he was an existing
16 person?

17 A. That is correct.

18 Q. At the top of Exhibit 51 there are some
19 notes. Is it your handwriting?

20 A. Part of it is my handwriting, I believe,
21 yes.

22 Q. Can you read for me what's written up
23 there?

24 A. Okay. The part that's in my handwriting
25 is, "Igberase transcript, question mark," and the

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1 letters SSS.

2 Q. Can you read what's below that?

3 A. I believe it says, "Why some things are
4 suspicions or suspicious." And that's in a
5 different handwriting.

6 Q. All right. This is a letter of
7 recommendation purportedly on behalf of Akoda and
8 not Igberase, correct?

9 MS. MCENROE: Objection to form.

10 A. Correct.

11 Q. What were you indicating by writing
12 "Igberase transcript, question mark"?

13 A. I don't know.

14 Q. Fair to say at this point you had some
15 concerns that Igberase and Akoda maybe have been one
16 and the same person?

17 MS. MCENROE: Objection.

18 A. Based on the other documents, yes.

19 Q. Do you know what transcript you're
20 referring to?

21 A. No.

22 Q. What does the SSS mean?

23 A. I believe it referenced Stephen Seeling
24 the vice president of operations.

25 Q. And to what purpose or to what end?

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1 obviously was included.

2 Q. Do you know if this was in fact within a
3 file on behalf of an official file for Akoda versus
4 kept somewhere else with ECFMG's records?

5 MS. MCENROE: Objection to form.

6 A. I don't know.

7 Q. Is there any justification that you can
8 think of as we sit here today as to why a document
9 concerning a physician's credibility and honesty
10 would not be included within their official file?

11 MS. MCENROE: Objection to form.

12 A. I don't know.

13 Q. You conclude that in the conclusion of
14 Paragraph No. 4 that you don't think this is enough
15 for the committee.

16 Help me understand in view of the
17 various documents previously discussed why you did
18 not believe that this was sufficient evidence to
19 even raise before a credentialing committee.

20 MS. MCENROE: Objection to form.

21 A. Based on experience and working with the
22 documents and presumably maybe talking with other
23 people that, you know, there was a staff had to
24 review all the materials that were part of the --
25 that were the result of the investigation, and part